

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1764

Introduced by Assembly Member Blakeslee

January 8, 2008

An act to amend Section 51201 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 1764, as amended, Blakeslee. Land use: agricultural use.

Existing law, for purposes of the Williamson Act, defines agricultural *use commodity* to mean ~~the use of land for the purposes of producing an agricultural commodity for commercial purposes~~ *any and all plant and animal products produced in this state for commercial purposes*.

This bill would include in the definition of agricultural ~~use commodity~~ *producing* plant products *used for producing* biofuels.

Existing law, for purposes of the Williamson Act, defines open space use to mean the use of land in a manner that preserves its natural characteristics, beauty, or openness for the benefit and enjoyment of the public, to provide essential habitat for wildlife, or for the solar evaporation of seawater within the course of salt production for commercial purposes, if the land is within, among other things, a wildlife habitat area or a managed wetland area, as defined.

This bill would include land that is within an area enrolled in the United States Department of Agriculture's Conservation Reserve Program or Conservation Reserve Enhancement Program.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 51201 of the Government Code is amended to read:

51201. As used in this chapter, unless otherwise apparent from the context:

(a) “Agricultural commodity” means any and all plant and animal products produced in this state for commercial purposes *including, but not limited to, plant products used for producing biofuels.*

(b) “Agricultural use” means use of land, including but not limited to greenhouses, for the purpose of producing an agricultural commodity for commercial purposes, ~~including, but not limited to, plant products used for producing biofuels.~~ *purposes.*

(c) “Prime agricultural land” means any of the following:

(1) All land that qualifies for rating as class I or class II in the Natural Resource Conservation Service land use capability classifications.

(2) Land which qualifies for rating 80 through 100 in the Storie Index Rating.

(3) Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture.

(4) Land planted with fruit- or nut-bearing trees, vines, bushes or crops which have a nonbearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars (\$200) per acre.

(5) Land which has returned from the production of unprocessed agricultural plant products an annual gross value of not less than two hundred dollars (\$200) per acre for three of the previous five years.

(d) “Agricultural preserve” means an area devoted to either agricultural use, as defined in subdivision (b), recreational use as defined in subdivision (n), or open-space use as defined in subdivision (o), or any combination of those uses and which is established in accordance with the provisions of this chapter.

1 (e) “Compatible use” is any use determined by the county or
2 city administering the preserve pursuant to Section 51231, 51238,
3 or 51238.1 or by this act to be compatible with the agricultural,
4 recreational, or open-space use of land within the preserve and
5 subject to contract. “Compatible use” includes agricultural use,
6 recreational use or open-space use unless the board or council finds
7 after notice and hearing that the use is not compatible with the
8 agricultural, recreational or open-space use to which the land is
9 restricted by contract pursuant to this chapter.

10 (f) “Board” means the board of supervisors of a county which
11 establishes or proposes to establish an agricultural preserve or
12 which enters or proposes to enter into a contract on land within an
13 agricultural preserve pursuant to this chapter.

14 (g) “Council” means the city council of a city which establishes
15 or proposes to establish an agricultural preserve or which enters
16 or proposes to enter into a contract on land within an agricultural
17 preserve pursuant to this chapter.

18 (h) Except where it is otherwise apparent from the context,
19 “county” or “city” means the county or city having jurisdiction
20 over the land.

21 (i) A “scenic highway corridor” is an area adjacent to, and within
22 view of, the right-of-way of:

23 (1) An existing or proposed state scenic highway in the state
24 scenic highway system established by the Legislature pursuant to
25 Article 2.5 (commencing with Section 260) of Chapter 2 of
26 Division 1 of the Streets and Highways Code and which has been
27 officially designated by the Department of Transportation as an
28 official state scenic highway; or

29 (2) A county scenic highway established pursuant to Article 2.5
30 (commencing with Section 260) of Chapter 2 of Division 1 of the
31 Streets and Highways Code, if each of the following conditions
32 have been met:

33 (A) The scenic highway is included in an adopted general plan
34 of the county or city; and

35 (B) The scenic highway corridor is included in an adopted
36 specific plan of the county or city; and

37 (C) Specific proposals for implementing the plan, including
38 regulation of land use, have been approved by the Advisory
39 Committee on a Master Plan for Scenic Highways, and the county

1 or city highway has been officially designated by the Department
2 of Transportation as an official county scenic highway.

3 (j) A “wildlife habitat area” is a land or water area designated
4 by a board or council, after consulting with and considering the
5 recommendation of the Department of Fish and Game, as an area
6 of great importance for the protection or enhancement of the
7 wildlife resources of the state.

8 (k) A “saltpond” is an area which, for at least three consecutive
9 years immediately prior to being placed within an agricultural
10 preserve pursuant to this chapter, has been used for the solar
11 evaporation of seawater in the course of salt production for
12 commercial purposes.

13 (l) A “managed wetland area” is an area, which may be an area
14 diked off from the ocean or any bay, river or stream to which water
15 is occasionally admitted, and which, for at least three consecutive
16 years immediately prior to being placed within an agricultural
17 preserve pursuant to this chapter, was used and maintained as a
18 waterfowl hunting preserve or game refuge or for agricultural
19 purposes.

20 (m) A “submerged area” is any land determined by the board
21 or council to be submerged or subject to tidal action and found by
22 the board or council to be of great value to the state as open space.

23 (n) “Recreational use” is the use of land in its agricultural or
24 natural state by the public, with or without charge, for any of the
25 following: walking, hiking, picnicking, camping, swimming,
26 boating, fishing, hunting, or other outdoor games or sports for
27 which facilities are provided for public participation. Any fee
28 charged for the recreational use of land as defined in this
29 subdivision shall be in a reasonable amount and shall not have the
30 effect of unduly limiting its use by the public. Any ancillary
31 structures necessary for a recreational use shall comply with the
32 provisions of Section 51238.1.

33 (o) “Open-space use” is the use or maintenance of land in a
34 manner that preserves its natural characteristics, beauty, or
35 openness for the benefit and enjoyment of the public, to provide
36 essential habitat for wildlife, or for the solar evaporation of
37 seawater in the course of salt production for commercial purposes,
38 if the land is within:

39 (1) A scenic highway corridor, as defined in subdivision (i).

40 (2) A wildlife habitat area, as defined in subdivision (j).

- 1 (3) A saltpond, as defined in subdivision (k).
- 2 (4) A managed wetland area, as defined in subdivision (l).
- 3 (5) A submerged area, as defined in subdivision (m).
- 4 (6) An area enrolled in the United States Department of
- 5 Agriculture's Conservation Reserve Program or Conservation
- 6 Reserve Enhancement Program.

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